

increase in pension obligations, I understand that they acted as quickly as possible to come into full compliance with the law and remain in compliance today. However, because they did not receive the same warning from the Pension Benefit Guaranty Corporation as other companies did, they are subject to a penalty excise tax for the first quarter in which they were not in compliance with the new law.

Currently, the Internal Revenue Service has no statutory authority to waive the penalty excise taxes that apply in these instances, even where the contribution due the plan was due to reasonable cause and reasonable steps have been taken to remedy the liquidity shortfall. In the absence of a legislative remedy, these companies will be forced to pay penalties to the IRS because they did not immediately comply with a law they had no knowledge of, in spite of their proven best efforts to fund their pension plans once made aware of their new responsibilities under the law. While ignorance of the law generally is not an excuse, I believe, Mr. President, that where the Government actually notified and counseled companies, but not these, it is appropriate that the tax penalty be waived.

Accordingly, my amendment that the distinguished managers of the bill included in their package of amendments would provide authority to the IRS to waive the excise tax in those cases where the shortfall was due to reasonable cause and reasonable steps were taken to remedy the liquidity shortfall. In consulting with the Pension Benefit Guaranty Corporation about this problem and a possible legislative solution, I am advised that the agency said that their primary interest is ensuring that pension plans have adequate funds to pay their benefits. The agency recognizes that some companies had difficulties complying with the new liquidity requirements due to a lack of transition rule. Therefore, I am advised that the agency has no objections to my amendment so long as it requires that reasonable steps have been taken to remedy the shortfall as a condition of the waiver, which my amendment provides.

This change in law will enable Freedom Forge Corp., Erie Forge Corp. and any other company that may find itself in a similar circumstance to be treated with fairness. Without fair pension laws, small companies will be unlikely to undertake this substantial responsibility. As legislators, we should be encouraging small employers to provide a pension plan for their employees, not discouraging them. Therefore, I commend Chairman ROTH for his understanding of pension policy and for including this important amendment in the managers' amendments package.

I thank the Chair and yield the floor. Mr. HELMS. Mr. President, the Small Business Job Protection Act of 1996 includes two essential and much-needed provisions that I've supported

for years. Together, these provisions will extend for 3 years the tax credit for employer provided educational assistance to workers, and it will allow spouses to invest fully in tax-deferred individual retirement accounts even though they are not employed outside of their homes.

Reauthorization of the employer provided education tax credit, codified at section 127 of the IRS Code, will enable American workers to provide for their families in a more substantial way. First authorized in 1978, this provision has helped more than 7 million working Americans to further their education and to acquire additional skills.

Mr. President, earlier this year I introduced Senate Concurrent Resolution 57 to extend this critically needed tax provision. I was gratified and encouraged when this resolution was adopted. Now, it's time for the Senate to act on the commitment expressed in Senate Concurrent Resolution 57 and extend the credit through December 31, 1997.

Mr. President, this Congress approved a reauthorization of this tax credit in the Balanced Budget Act of 1995. Notwithstanding his rhetoric in support of education, the President vetoed the bill, and prevented the extension of this urgently needed education tax credit, while sowing uncertainty among the workers and employers who were understandably relying upon these tax-free benefits.

This uncertainty is particularly acute among workers and employers in areas undergoing sweeping economic changes. In my State of North Carolina, thousands of textile workers have lost their jobs in recent years, while other industries have experienced phenomenal growth. Extension of this credit will help all workers by encouraging employers to provide tax-free education benefits to their employees, thereby benefiting employers by improving worker skills while benefiting their workers by reducing concerns about job security.

Mr. President, perhaps the case for extending this credit was made most eloquently by two distinguished North Carolinians. Representative of employer concerns, Nan Keohane, president of Duke University in Durham, NC, wrote to me saying that:

We at Duke believe it is important for our employees to achieve their educational goals and to acquire the skills they need to succeed in an increasingly complex society. The ability to exclude education benefits from personal income tax is obviously important to our own employees, and particularly to those who otherwise could not afford the educational costs that the tax on these benefits would require.

Typical of letters from workers who have written to me is one by Jeff Stanley, a fine young man who works for Motorola in Research Triangle Park. Jeff has been working toward a Bachelors Degree in Business Administration at North Carolina Wesleyan College; he is close to completing it. However, his employer-provided education benefits are, he says, "taxed at ap-

proximately 40 percent" and that "[t]his extra expense is causing a financial hardship. I would very much like to complete my degree within the next year, but due to the extra expense of the taxation, I may have to delay the completion."

Passage of the Small Business Job Protection Act will ensure that Jeff Stanley can complete his education without those benefits being made subject to a 40-percent tax rate, the effect of which is to discourage pursuit of a life-long education goal. This time, I hope the President will permit this important provision to become law.

Another provision of the bill proposes that spouses may invest fully in an individual retirement account. Current law prohibits these working spouses from investing more than \$250 in an IRA. Yet, if the same spouse works outside the home, he or she is able to participate fully in IRA tax-deferred investments—to the tune of \$2,000 per year.

The Small Business Job Protection Act eliminates this double-standard and recognizes the value of those who labor in the home. In the process, it will benefit the estimated 18.6 million households with married couples. Many of those households include a parent who chooses to work at home, frequently sacrificing more lucrative careers for the more rewarding job of raising children. It's common sense that the tax code shouldn't discourage these parents from working in the home.

Mr. President, the IRS Code is a testament to the big-spending leviathan known as the Federal Government. In addition to over-taxing American citizens, the Code contains countless irrational provisions which ought to be scrapped. It's too bad that politics caused this bill to be burdened with an unwise increase in the minimum wage; rammed down the throats of countless thousands of small businesses who will have to eliminate untold numbers of entry-level jobs that are so meaningful to young workers today.

UNANIMOUS-CONSENT AGREEMENTS

Mrs. KASSEBAUM. Mr. President, if I may just do some housecleaning for the majority leader.

I ask unanimous consent that immediately following the stacked votes beginning at 12 noon on Wednesday, there be a period for the transaction of morning business not to exceed 1 hour, with 40 minutes of the time under the control of the Democratic leader or his designee, and 20 minutes under the control of Senator THOMAS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. I further ask that at 9 a.m. on Thursday there be a period for the transaction of morning business not to exceed 1 hour, 40 minutes under the control of Senator

DASCHLE or his designee, and 20 minutes under the control of Senator COVERDELL.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. I yield the floor, Mr. President.

SMALL BUSINESS JOB PROTECTION ACT OF 1996

The Senate continued with the consideration of the bill.

Mr. MOYNIHAN. Mr. President, I am happy to yield 8 minutes to my distinguished friend and fellow member of the Finance Committee, Senator GRAHAM of Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I wish to speak briefly on a provision which I hope will be included in this bill at the time we take our final vote. It is a provision which is of great importance to working parents and their children across America.

For years, one of the major challenges to American families has been how to plan for their children's educational future. This challenge has been exacerbated in recent years due to the continued rising costs of college education.

In response to this challenge, over the past 10 years States have formed innovative partnerships with families. These are typically known as prepaid college tuition plans. These plans, although not structurally identical, share a common purpose. These plans allow parents to pay in advance for a child's tuition at a participating college or university, thereby locking in today's tuition prices, guaranteeing the child's access to a future college education. The State then takes the funds which have been paid by the participant, typically the parent, and invests them in a way that keeps pace with the cost of college education. These programs are designed so that people of moderate means can help their children realize the dream of a college education. For instance, the typical Florida family participating in this program earns approximately \$50,000 a year.

These programs are also tailored to maximize flexibility. Families can either purchase a prepaid tuition contract with a lump sum or, if they choose, they can pay the child's education in monthly installments. These plans, therefore, are affordable. For instance, those families who opt to invest on a monthly basis in my State of Florida put aside an average of about \$53 a month, roughly the price of cable television service.

This affordability has made prepayment programs enormously successful in Florida and across the Nation. Most importantly, at a time when the next generation will struggle to provide for the financial security of its children, prepaid college programs provide a powerful incentive for families to save, to invest in their futures, to provide for some security when an unexpected tragedy occurs.

Let me share with you an example of such an unexpected tragedy. Mr. and Mrs. Daniel Gilliland enrolled their sons, Sean and Patrick, in the Florida program in 1988, the first year of its existence. Four years later, Sean entered the University of Florida as a freshman in the fall of 1992. In 1994, the father, Daniel Gilliland, died unexpectedly, just as the younger son Patrick was about to go to the University of Florida for his freshman year. The death of Daniel Gilliland was devastating to the family, but because the Gillilands were able to participate in the Florida prepaid college program both children were able to go on with their lives and continue their education. I will quote from a letter from Mrs. Gilliland, which I ask unanimous consent be printed in the RECORD immediately after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAHAM. She states, "By expecting the unexpected, we were able to give both sons an education at a fine university that would certainly otherwise have been difficult for me as a single parent."

When Daniel died, I silently offered "thanks that we had the foresight and chance to participate in this program."

Today, Sean is a senior at the University of Florida, ready to graduate with a degree in business. Patrick maintains a 3.6 average, while working toward a degree in athletic training.

Mr. President, it is because of success stories like the Gilliland's that the prepaid college programs are flourishing. Twelve States already have operating programs. Those States are those depicted in green on this map. Four States depicted in yellow will begin tuition programs this year, and a dozen more are moving towards enacting prepaid tuition legislation, those depicted in red.

As an example, the Texas prepaid tuition program, which was set up this year, receives 4,000 inquiries a day and enrolled 40,000 participants within the first few weeks of implementing the program.

In Florida, 376,000 families are currently participating in the program; 40,000 participants join each year.

Why, in the face of this great success, are we considering Federal legislation to affect State prepaid tuition plans? The reason is because early this year the taxation of these plans was called into question by the Internal Revenue Service. The IRS contacted six States with operating programs and informed them that the IRS intended to do two things: First, the IRS stated that it would treat the State fund as a taxable corporation rather than a tax-exempt government entity. Obviously, this action would make it difficult for States to meet their obligation to families under the plan. Second, the IRS stated that families should have to pay tax annually on the interest income earned on amounts transferred to the fund.

Mr. President, it just does not make sense to me that an individual who

purchases a tuition contract should have to pay tax every year on the earnings on the funds. First, the contributor has surrendered control of his funds. He or she can only get money back if a student dies or should not qualify for college. And then, under most plans, the State refunds only the principal. Second, the contributor does not have access to the funds to pay the tax, since the money contributed to the tuition contract now belongs to the fund itself.

Given the fact that most who contribute to the fund are of modest means, it is a tremendous disincentive to investing in education to make contributors pay tax on interest income for up to 18 years before the child goes to college.

Because we felt so strongly about this issue, a bipartisan group of Senators, including Senators MCCONNELL, BREAUX, and SHELBY, decided to do something about it. In discussions with the administration and the Department of Treasury we were able to get the IRS to revisit this issue. I am pleased to report that on June 11 of this year, the IRS issued new rules that will temporarily exempt State tuition plans from interest income taxation. This matter has not been settled. The Department of Treasury has asked for help from Congress, asking us to clarify the tax treatment of these plans. Until we act, the financial future of these plans, along with the education of over a half-million participants nationwide, remains in limbo. This bill will clarify that these State programs are not taxable and that the earnings on the fund will not be taxed until the child goes to college.

Removing the specter of Federal taxation from these plans is particularly appropriate at this time, a time when Congress should be trying to foster innovative programs among the States and encouraging families' efforts to save and invest for their children's future.

I would like to particularly thank Senator ROTH and Senator MOYNIHAN for their support and assistance in including this important provision in the legislation. With enactment of this legislation, parents and children will be able to rest easier, knowing that Congress has done the right thing in protecting their investment and protecting their—and our—Nation's future.

EXHIBIT 1

MRS. DANIEL D. GILLILAND,
Bradenton, FL.

KAREN S. FENTON,
Editor, *College Bound, Florida Prepaid College Program, Tallahassee, FL.*

DEAR MS. FENTON: I am writing to acknowledge your invitation to share "success stories".

My husband Daniel and I enrolled our two sons Sean and Patrick in the College Program in 1988, I believe the first year this was offered.